

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

RECEIVED
USDC, CLERK, CHARLESTON, SC
2009 FEB -2 A II: 18

Lannie Stroman, #234581,) C. A. No. 2:08-3754-SB-RSC
)
)
Plaintiff,)
)
-versus-) **REPORT AND RECOMMENDATION**
)
Samuel Bobo, Sgt.; Waldrup,)
Captain; R.L. Turner, DHO;)
Riley, Warden,)
)
Defendants.)

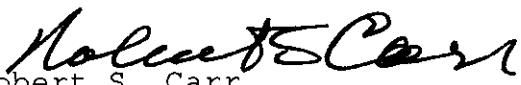
The *pro se* plaintiff brought this civil rights action pursuant to 42 U.S.C. § 1983. On December 8, 2008, the defendants filed a motion for summary judgment. By order of this court filed December 17, 2008, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of dismissal and summary judgment procedures and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff elected not to respond to the motion.

As the plaintiff is proceeding *pro se*, the court filed a second order on January 22 2009, giving the plaintiff an additional ten (10) days in which to file his response to the defendants' motion for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action may be dismissed with prejudice for failure to prosecute, Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978), 41(b) Federal Rules of Civil Procedure. This order was mailed to the plaintiff's

last known address (Lannie Stroman, #234581, Evans Correctional Institution, 610 Highway 9 West, Bennettsville, South Carolina 29512). The envelope containing this order was returned to the court on January 30, 2009, marked "Released" and "Return to Sender Not Deliverable as Addressed - Unable to Forward" indicating the plaintiff is no longer incarcerated at Evans Correctional Institution.

Based on the foregoing lack of action on the part of the plaintiff in neither responding to the motion for summary judgment nor keeping the court advised of his address, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution and failure to comply with the court's order to keep the court advised of his current mailing address.

Respectfully Submitted,


Robert S. Carr
United States Magistrate Judge

Charleston, South Carolina

February 2, 2009

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court judge need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
P.O. Box 835
Charleston, South Carolina 29402

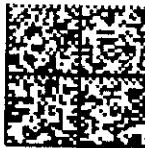
Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).

UNITED STATES DISTRICT COURT
85 BROAD STREET
CHARLESTON, SOUTH CAROLINA 29401

OFFICIAL BUSINESS

Lannie Stroman, 234581
Evans Correctional Institution
610 Highway 9 West
Bennettsville, SC 29512

UTP
ITEM X-RAYED BY
USMS
PS 1-30



UNITED STATES POSTAGE
02 P
0002484368 JAN
MAILED FROM ZIPCC

U.S. POSTAL SERVICE
UNITED STATES POSTAGE
JAN 30 A.M. 24
CHARLESTON, SC

NIXIE 292 DE 1 00 01/27/01

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

BC: 29401220285 *1754-07110-22-37

295 294012202

|||||